

Karma M. Giulianelli (SBN 184175)
karma.giulianelli@bartlitbeck.com

BARTLIT BECK LLP

1801 Wewetta St., Suite 1200
Denver, Colorado 80202
Telephone: (303) 592-3100

Hae Sung Nam (*pro hac vice*)
hnam@kaplanfox.com

KAPLAN FOX & KILSHEIMER LLP

850 Third Avenue
New York, NY 10022
Tel.: (212) 687-1980

*Co-Lead Counsel for the Proposed Class in In re
Google Play Consumer Antitrust Litigation*

Steve W. Berman (*pro hac vice*)
steve@hbsslaw.com

HAGENS BERMAN SOBOL SHAPIRO LLP

1301 Second Ave., Suite 2000
Seattle, WA 98101
Telephone: (206) 623-7292

*Co-Lead Counsel for the Proposed Class in In re
Google Play Developer Antitrust Litigation and
Attorneys for Pure Sweat Basketball, Inc.*

Bonny E. Sweeney (SBN 176174)
bsweeney@hausfeld.com

HAUSFELD LLP

600 Montgomery Street, Suite 3200
San Francisco, CA 94104
Telephone: (415) 633-1908

*Co-Lead Counsel for the Proposed Class in In re
Google Play Developer Antitrust Litigation and
Attorneys for Peekya App Services, Inc.*

[Additional counsel appear on signature page]

Paul J. Riehle (SBN 115199)
paul.riehle@faegredrinker.com

**FAEGRE DRINKER BIDDLE & REATH
LLP**

Four Embarcadero Center, 27th Floor
San Francisco, CA 94111
Telephone: (415) 591-7500

Christine A. Varney (*pro hac vice*)
cvarney@cravath.com

CRAVATH, SWAINE & MOORE LLP

825 Eighth Avenue
New York, New York 10019
Telephone: (212) 474-1000

*Counsel for Plaintiff Epic Games, Inc. in Epic
Games, Inc. v. Google LLC et al.*

Brian C. Rocca (221576)

brian.rocca@morganlewis.com

MORGAN, LEWIS & BOCKIUS LLP

One Market, Spear Street Tower
San Francisco, CA 94105-1596
Telephone: (415) 442-1000

Counsel for Defendants Google LLC et al.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE GOOGLE PLAY CONSUMER
ANTITRUST LITIGATION

Case No. 3:20-cv-05761-JD

IN RE GOOGLE PLAY DEVELOPER
ANTITRUST LITIGATION

Case No. 3:20-cv-05792-JD

EPIC GAMES, INC.,

Case No. 3:20-cv-05671-JD

Plaintiff,

v.

**JOINT CASE MANAGEMENT
STATEMENT**

GOOGLE LLC et al.,

Date: January 14, 2021

Time: 10:00 a.m.

Courtroom: 11, 19th Floor (via Zoom)

Judge: Hon. James Donato

Defendants.

Pursuant to this Court’s Minute Entry Orders dated December 3, 2020, setting a further status conference for January 14, 2021 (*Epic Games Inc. v. Google LLC et al.*, Case No. 3:20-cv-05671-JD (“*Epic Action*”), ECF No. 105; *In re Google Play Consumer Antitrust Litigation*, Case No. 3:20-cv-05761-JD (“*Consumer Action*”), ECF No. 108; *In re Google Play Developer Antitrust Litigation*, Case No. 3:20-cv-05792-JD (“*Developer Action*”), ECF No. 75) (collectively, the “Minute Orders”), the Parties in the above-captioned related actions (the “Related Actions”), by and through their undersigned counsel, submit this Joint Case Management Statement.

The Parties note that the status conference may be unnecessary in light of the current status of case activity (as described below), but defer to the Court’s preference as to whether to proceed with, or continue, the conference.

I. CASE STATUS SUMMARY

Scheduling Order. On November 6, 2020, the Parties filed with the Court an agreed Stipulation and [Proposed] Scheduling and Page Limits for Forthcoming Motion Practice. (*Epic Action*, ECF No. 87; *Consumer Action*, ECF No. 71; *Developer Action*, ECF No. 68.) The Stipulation and [Proposed] Scheduling and Page Limits for Forthcoming Motion Practice is pending before the Court.

Protective Order. On December 7, 2020, the Parties submitted to the Court an agreed Joint Statement Regarding [Proposed] Stipulated Protective Order. (*Epic Action*, ECF No. 106, 106-1; *Consumer Action*, ECF No. 109, 109-1; *Developer Action*, ECF No. 76, 76-1.) The Court entered the Stipulated Protective Order on December 10, 2020, “except that in those cases where the stipulated protective order conflicts with the Court’s standing orders (e.g., with respect to the filing of discovery motions) . . . the Court’s standing orders will control”. (*Epic Action*, ECF No. 110; *Consumer Action*, ECF No. 117; *Developer Action*, ECF No. 78.)

Appointment of Interim Class Counsel in the *Developer Action*. On

December 11, 2020, the Court appointed Hagens Berman Sobol Shapiro LLP, Hausfeld LLP and Sperling & Slater, P.C. as co-lead Interim Class Counsel for the developer class. (*Developer Action*, ECF No. 79.)

Appointment of Interim Class Counsel in the *Consumer Action*. On

December 16, 2020, the Court appointed Hae Sung Nam and Karma Giulianelli as co-lead Interim Class Counsel and Elizabeth Pritzker as Liaison Counsel for the consumer class. It also appointed Nanci Nishimura, Peggy Wedgworth and George Zelcs, as members of the Steering Committee. (*Consumer Action*, ECF No. 128.)

Consolidated Class Action Complaints. On December 28, 2020, the plaintiffs

in the *Consumer Action* filed their Consolidated Consumer Class Action Complaint. (*Consumer Action*, ECF No. 132.) The plaintiffs in the *Developer Action* previously filed their First Consolidated Class Action Complaint on October 21, 2020. (*Developer Action*, ECF No. 56.)

Google's Motions to Dismiss. Google filed its opening brief in support of its

motion to dismiss the *Epic Action* and the *Developer Action* on November 13, 2020. The plaintiffs filed their opposition on December 21, 2020. Google's reply is due January 20, 2021.

In the Minute Orders, the Court ordered that "Plaintiffs in the consumer action

and Google will file a joint proposal on the scope and timing of a motion to dismiss within 14 days of the filing of the amended complaint on December 28, 2020". (*Consumer Action*, ECF No. 108.) Consumers and Plaintiffs are in the process of meeting and conferring, and anticipate filing a stipulation on or before January 11, 2021, proposing a plan for the scope and timing of motion practice.

Motion for Transfer and Consolidation (J.P.M.L.). On October 30, 2020,

Plaintiff J. Jackson Paige filed *Paige v. Google LLC*, Case No. 1:20-cv-03158 (D.D.C.) ("*Paige Action*"), which is a putative consumer class action that mirrors the *Consumer Action*. On

November 5, 2020, Plaintiff Paige moved pursuant to 28 U.S.C. § 1407 to consolidate the Related Actions with *In re Google Digital Advertising Antitrust Litigation*, Case No. 5:20-cv-03556 (N.D. Cal.) and the *Paige Action*, and to transfer the consolidated actions to the United States District Court for the District of Columbia for pretrial proceedings. The next day, the Judicial Panel on Multidistrict Litigation ordered the parties to respond to that motion no later than November 27, 2020. On November 24, 2020, Google moved to transfer the *Paige Action* to the United States District Court for the Northern District of California pursuant to 28 U.S.C. § 1404(a). On November 27, 2020, Google and all but one of the plaintiffs in the Related Actions filed oppositions to Paige’s motion for transfer and consolidation in the District of Columbia. (*In re Google Antitrust Litigation*, MDL No. 2981 (J.P.M.L.), ECF Nos. 32, 33, 36, 37.) Paige filed a reply on December 7, 2020, and the Judicial Panel on Multidistrict Litigation ordered a hearing for January 28, 2021. (*In re Google Antitrust Litigation*, MDL No. 2981 (J.P.M.L.), ECF No. 47.)

Two additional putative consumer class actions have been filed in the District of Columbia, and another in the Southern District of Mississippi. (*McCready v. Google LLC*, No. 1:20-cv-03556-APM (D.D.C.) (filed Dec. 7, 2020); *Blumberg v. Google LLC*, No. 1:20-cv-03557-APM (D.D.C.) (filed Dec. 7, 2020); *Ratliff v. Google LLC*, No. 3:20-cv-00833-DPJ-FKB (S.D. Miss.) (filed Dec. 30, 2020).).

Discovery. On November 9, 2020, Plaintiffs in the *Epic Action*, *Consumer Action* and *Developer Action* jointly served their First Set of Requests for Production to Defendants Google LLC et al. (“Plaintiffs’ RFPs”). Google served its Responses and Objections to Plaintiffs’ RFPs on December 23, 2020. The Parties have met and conferred on several occasions regarding Plaintiffs’ RFPs and will continue to do so.

Google served its First Set of Requests for Production to Epic Games, Inc. on December 8, 2020, and Google served its First Set of Requests for Production to the plaintiffs in

1 the *Developer Action* on December 18, 2020 (collectively, “Google’s RFPs”). The Parties have
2 met and conferred on several occasions regarding Google’s RFPs and will continue to do so.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Dated: January 7, 2021

CRAVATH, SWAINE & MOORE LLP

Christine Varney
Katherine B. Forrest
Gary A. Bornstein
Yonatan Even
Lauren A. Moskowitz
M. Brent Byars

6 Respectfully submitted,

7 By: /s/ Yonatan Even
8 Yonatan Even

9 *Counsel for Plaintiff Epic Games, Inc.*

10
11 Dated: January 7, 2021

BARTLIT BECK LLP
Karma M. Giulianelli

12 KAPLAN FOX & KILSHEIMER LLP
13 Hae Sung Nam

14
15 Respectfully submitted,

16 By: /s/ Karma M. Giulianelli
17 Karma M. Giulianelli

18 *Co-Lead Counsel for the Proposed Class in*
19 *In re Google Play Consumer Antitrust*
20 *Litigation*

1 Dated: January 7, 2021

PRITZKER LEVINE LLP
Elizabeth C. Pritzker

2
3 Respectfully submitted,

4 By: /s/ Elizabeth C. Pritzker
Elizabeth C. Pritzker

5
6 *Liaison Counsel for the Proposed Class in*
7 *In re Google Play Consumer Antitrust*
8 *Litigation*

9 Dated: January 7, 2021

HAGENS BERMAN SOBOL SHAPIRO LLP
Steve W. Berman
Robert F. Lopez
Benjamin J. Siegel

11 SPERLING & SLATER PC
12 Joseph M. Vanek
13 Eamon P. Kelly
14 Alberto Rodriguez

15 Respectfully submitted,

16 By: /s/ Steve W. Berman
Steve W. Berman

17
18 *Co-Lead Interim Class Counsel for the*
19 *Developer Class and Attorneys for Plaintiff*
20 *Pure Sweat Basketball*
21
22
23
24
25
26
27
28

1 Dated: January 7, 2021

HAUSFELD LLP

Bonny E. Sweeney
Melinda R. Coolidge
Katie R. Beran
Scott A. Martin
Irving Scher

Respectfully submitted,

By: /s/ Bonny E. Sweeney
Bonny E. Sweeney

*Co-Lead Interim Class Counsel for the
Developer Class and Attorneys for Plaintiff
Peekya App Services, Inc.*

11 Dated: January 7, 2021

MORGAN, LEWIS & BOCKIUS LLP

Brian C. Rocca
Sujal J. Shah
Minna L. Naranjo
Rishi P. Satia
Michelle Park Chiu

Respectfully submitted,

By: /s/ Brian C. Rocca
Brian C. Rocca

Counsel for Defendants Google LLC et al.

E-FILING ATTESTATION

I, Jamie L. Boyer, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in this filing.

/s/ Jamie L. Boyer

Jamie L. Boyer